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Elections to fill vacancies in subsidiary organs and other elections: election of eighteen members of the Human Rights Council

Note verbale dated 12 October 2012 from the Permanent Mission of Kenya to the United Nations addressed to the President of the General Assembly

The Permanent Mission of Kenya to the United Nations presents its compliments to the President of the General Assembly and, with reference to his note dated 15 August 2012 on the presentation of Kenya's candidature for membership to the Human Rights Council for the term 2013-2015 at the elections to be held on 12 November 2012, has the honour to forward herewith the voluntary pledges and commitments of Kenya on human rights in support of its candidature (see annex).

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Annex to the note verbale dated 12 October 2012 from the Permanent Mission of Kenya to the United Nations addressed to the President of the General Assembly

Candidature of Kenya to the Human Rights Council, 2013-2015

Voluntary pledges and commitments pursuant to General Assembly resolution 60/251

Background

1. The Government of Kenya has decided to present its candidature to the Human Rights Council for the term 2013-2015 at the elections to be held on 12 November 2012 during the sixty-seventh session of the General Assembly.

2. Kenya attaches great importance to the promotion and protection of human rights as universally shared principles and norms enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights and relevant international human rights instruments.

3. The Constitution of Kenya is one of the most progressive constitutions in the world. The 2010 Constitution provides the basis for the direct application and invocation of treaties or conventions ratified by Kenya. Kenya has therefore assumed the highest international standards of human rights as set out in the international and regional instruments to which it is a party. Kenya is a State party to the following international and regional human rights treaties:

International human rights conventions

- The International Covenant on Civil and Political Rights
- The International Covenant on Economic, Social and Cultural Rights
- The International Convention on the Elimination of All Forms of Racial Discrimination
- The Convention on the Elimination of All Forms of Discrimination against Women
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- The Convention on the Rights of the Child and its Optional Protocols on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict
- The Convention on the Non-Applicability of Statutory Limitation to War Crimes and Crimes against Humanity
- The United Nations Convention against Corruption
- The Convention Relating to the Status of Refugees
- The Geneva Conventions of 1949 and additional Protocols I and II thereto

- The Rome Statute of the International Criminal Court
- 49 conventions of the International Labour Organization, with 43 of them in force

Regional human rights instruments

- The African Charter on Human and Peoples' Rights
- The African Charter on the Rights and Welfare of the Child
- The Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa

4. Over the years, Kenya has been actively engaged in the work of the key human rights organizations. This includes serving as a member of the Commission on Human Rights in the periods 1984-1986, 1992-1994 and 2001-2003. Kenya has also been actively involved in United Nations reform processes and, in particular, in the establishment of the Human Rights Council. Kenya also actively participated in the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, which resulted in the adoption of the Rome Statute.

5. The Constitution of Kenya underscores the fundamental nature of human rights by entrenching them as part of the national values and principles of governance that guide all in the interpretation and application of laws as well as the development and implementation of public policies. The Constitution further requires the State to enact and implement legislation to fulfil its international obligations with respect to human rights and fundamental freedoms.

Pledges and commitments

6. In order to enhance the promotion and protection of human rights, Kenya commits itself to further advancing human rights at the regional and international levels and to further enhancing human rights at the national level.

Advancing human rights at the regional and international levels

7. Kenya commits to continue playing an active role in the mediation and resolution of regional conflicts with the objective of establishing and nurturing ideal conditions for the promotion and protection of human rights. This objective is premised on its conviction that peace, security, stability and enjoyment of civil liberties cannot be enjoyed without the protection of human rights.

8. A cardinal precept of its foreign policy is the diligent pursuit of the promotion and protection of human rights in both the bilateral and multilateral frameworks. Kenya reaffirms its commitment to continue to pursue this policy within the United Nations system.

9. Kenya has for decades been a destination of choice and has welcomed, accommodated and provided a safe haven for refuge seekers fleeing from neighbouring countries such as Burundi, the Democratic Republic of the Congo, Ethiopia, Rwanda, Somalia, the Sudan, South Sudan, Uganda and even countries further afield from other parts of the world. Kenya is currently host to almost 1 million refugees. Kenya remains committed to playing its role of ensuring the safety and protection of refugees in camps and elsewhere in Kenya.

10. Since its independence, Kenya has worked with United Nations organs, specialized agencies and other intergovernmental organizations with the aim of realizing agreed-upon development and human rights goals. Kenya commits itself to strengthening this working partnership with United Nations and other intergovernmental organizations in order to achieve those goals.

11. Kenya continues to work with the special procedures mechanisms and values the engagement. The Special Rapporteurs on the rights of indigenous people, on internally displaced persons, on torture, on housing and on extrajudicial, summary or arbitrary executions have visited Kenya.

12. In conformity with its international reporting obligations, Kenya has presented reports to the Committee on Economic, Social and Cultural Rights, the Committee against Torture, the Committee on the Elimination of Racial Discrimination the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child and the Human Rights Committee. In addition, Kenya has made significant progress in the implementation of the recommendations and observations made pursuant to the processes. Kenya has also submitted its initial report under the Convention on the Rights of Persons with Disabilities. Kenya commits itself to continuing to honour its reporting obligations.

13. Kenya fully supports the periodic review of Member States' human rights records. Kenya was among the first African countries to voluntarily submit itself for review under the African Peer Review Mechanism of the New Partnership for Africa's Development, which evaluates States and makes recommendations on the promotion and protection of human rights, good governance, the rule of law and justice. Kenya was reviewed during the first cycle of the universal periodic review mechanism of the Human Rights Council in 2010 and looks forward to the next review during the second cycle, in 2015.

Enhancing human rights at the national level

14. Kenya continues to domesticate its international legal obligations through the adoption of legislative measures, practical programmes and policies.

15. In the preamble of the Constitution, the people of Kenya recognize their aspirations for a Government based on the essential values of human rights, equality, freedom, democracy, social justice and the rule of law. The Bill of Rights under the Constitution guarantees a wide range of fundamental rights and freedoms, be they civil and political or economic, social and cultural rights. Additionally, the Constitution both in content and in process, bestows all sovereign power on the people of Kenya. As such the people of Kenya are at the centre of the State and its processes. In order to bridge the information gap and actualize this right of public participation, civic education continues to be undertaken under the Kenya National Integrated Civic Education Programme, which was developed in consultation with State and non-State actors. The objective is to empower citizens, including public officers, to understand and participate in the implementation of the provisions of the Constitution and its enabling legislation in a meaningful manner.

16. Kenya recognizes the supremacy of the law and has long recognized the importance of ensuring that institutions of governance observe the tenets of the rule of law. In this regard, Kenya has undertaken measures to strengthen an independent judiciary, improve accountability within the executive and enhance the oversight

functions of Parliament. Kenya will continue to strengthen its institutions of governance in order to further entrench respect for the rule of law.

17. The following independent constitutional commissions have been established and/or restructured to strengthen further the mechanisms for the protection of human rights:

- The Kenya National Commission on Human Rights, as established through the Kenya National Commission on Human Rights Act of 2011. Prior to the entry into force of the current act, the Commission was in existence, as a statutory body, by virtue of the now repealed Kenya National Commission on Human Rights Act of 2002. The Commission was established in accordance with the Paris Principles and operates independently to monitor human rights legislation and ensure that it is strictly adhered to and to lobby proactively for a legal framework consistent with international standards and good practices in human rights.

- The National Gender and Equality Commission, established through the National Gender and Equality Commission Act of 2011, whose mandate includes acting as the principal organ of the State in ensuring compliance with all treaties and conventions ratified by Kenya relating to issues of equality and freedom from discrimination and relating to special interest groups, including minorities and marginalized persons, women, persons with disabilities and other marginalized groups, in national development and to advise the Government on all aspects thereof.

- The Commission on Administrative Justice (Ombudsman), established through the Commission on Administrative Justice Act of 2011. It is mandated to provide a mechanism for safeguarding against abuse of power, unfair treatment, manifest injustice or unlawful, oppressive or unresponsive conduct by public officers.

18. Kenya is committed to the implementation of the Kenya Vision 2030, which is a long-term comprehensive development blueprint for Kenya. The Vision is anchored in the three pillars of economic, social and political development. The pillars will ensure that Kenya achieves and sustains growth in the economic sphere, builds a just and cohesive society through equitable social development and is governed through a democratic political system that nurtures the rule of law and protects all rights and fundamental freedoms.

19. A revamped and restructured judiciary is ensuring that all people can enjoy equal protection under the law. Any person can institute judicial proceedings relating to the denial, violation or threat to the rights and fundamental freedoms. Kenya will continue reforming the judicial system with a view to enhancing equitable and timely access to justice for all, as well as realizing an efficient, effective and coherent judicial system. This will further guarantee that all persons enjoy equal benefit of and protection by the law.

20. If elected as a member of the Human Rights Council, Kenya will work to effectively carry out its mandate in the Council.

21. The Government of Kenya remains firmly committed to the protection and promotion of human rights throughout the world and would be grateful for the support of all Member States.